

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 2319 OF 2022**

M/s Shree Ram Medical and General StoresPetitioner

Vs.

The Assistant Commissioner of Food and
Drugs Administration & Anr.Respondents

Ms. Diksha Jain Mundra i/by Ms. Swati Sharma for the Petitioner.
Smt. V. S. Nimbalkar, AGP for State.

CORAM : A. S. GADKARI, J.

DATE : 18th APRIL, 2022.

P.C.:-

Petitioner has impugned Order dated 14th January, 2022 passed by the Respondent No.1 thereby suspending its License for a period of 90 days i.e. from 21st February, 2022 to 21st May, 2022. The said Order was passed by Respondent No.1 in furtherance of Order dated 24th December, 2021 passed by the Hon'ble Minister of Respondent No.2 in Appeal No.208 of 2019.

2. Heard Ms. Mundra, learned Advocate for Petitioner and Smt. Nimbalkar, learned AGP for State. Perused record.

3. Record indicates that, on 26th October, 2018, Drug Inspector (Thane) Mr. P. D. Harak gave a surprise visit to the shop of the Petitioner and orally demanded Azithromycin Tab 500mg. The person present in the

shop gave him 3 Azicip 500 Tab, B.No.I080046 without a bill. Inspection of shop of the Petitioner was thereafter conducted and it was found that signature of the Pharmacist was not appearing on many bills in the record maintained by the shop. That, some drugs from Schedule H1 were found in the shop, however there entries were not taken in the register maintained by the Petitioner. It was also found that, though the refrigerator was in working condition in the said shop, some of the medicines as mentioned in para No.7 of the show cause notice dated 15th November, 2018, which were required to be stored in refrigerator, were kept outside it.

4. After hearing the Petitioner, the Respondent No.1 passed Order dated 10th January, 2019 thereby canceling License issued in favour of the Petitioner. In an Appeal before the State Government, the Hon'ble Minister, Ministry of Food and Drug Administration, Maharashtra quashed the Order passed by Respondent No.1 by its Order dated 24th December, 2021 and was pleased to restore the License of the Petitioner, however directed suspension of License for a period of 90 days. In furtherance of the said Order dated 24th December, 2021, the Respondent No.1 has passed impugned Order dated 14th January, 2022.

5. Learned Advocate appearing for the Petitioner submitted that, it was a genuine mistake on the part of the Petitioner in not maintaining the record as prescribed under the provisions of law. She submitted that, in the original bills, the signatures of the Pharmacist were there, however

inadvertently on some of the counterfoils said signatures did not appear. She submitted that, the lapses alleged against the Petitioner are minor in nature, due to which no harm caused to the hygiene of the customers of the Petitioner. She submitted that, the Petitioner has learnt a lesson for his life, as the shop is shut down for last about 60 days and he will not commit such mistake in future. She submitted that, the Petitioner on 5th December, 2018 had given a letter thereby admitting his lapses to the concerned Authority wherein also he has categorically admitted that he will not repeat the said mistake in future.

6. After perusing the entire record and taking into consideration the fact that, the State Government in its Appellate Jurisdiction has restored the License of the Petitioner and has directed suspension of it for a period of 90 days and the fact that the shop of the Petitioner is closed for last about 60 days, this Court is of the considered view that, the period of suspension of the License of the Petitioner can be reduced up to 60 days. Hence, following Order:-

O R D E R

- a) Impugned Orders dated 24th December, 2021 and 14th January, 2022 are hereby modified and the License of the Petitioner is directed to be suspended for a period of 60 days i.e. from 21st February, 2022 to 21st April, 2022.

- b) Rest of the Order passed by the Respondent No.2 is maintained except the aforesaid modification.
 - c) Petition is allowed in aforesaid terms.
6. All the concerned to act on an authenticated copy of this Order.

(A.S. GADKARI, J.)